

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION
Case Number 3:13-cv-00598-JPG-DGW

JAN BEAUGRAND,
as ADMINISTRATRIX OF THE ESTATE OF KIMBERLE MABRY

PLAINTIFF

V.

COMPLAINT

UNITED STATES

DEFENDANT

serve: Hon. Eric H. Holder, Jr.
U.S. Attorney General
U.S. Department of Justice
905 Pennsylvania Ave., NW
Washington, DC 20530-0001

serve: Civil Process Clerk
U.S. Attorney's Office
501 Broadway, Room 29
Paducah, KY 42001

serve: Hon. Eric K. Shinseki
Secretary of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Serve: Dr. Shaheda M. Mansuri
2401 W. Main St.
Marion, IL 62959

Comes the Plaintiff, Jan Beaugrand, Administratrix of the Estate of Kimberle Mabry, deceased, by and through counsel, in accordance with the Federal Tort Claims Act, sections 1346(b) and 2671-2680, title 28, United States Code, and for her cause of action against the Defendant, the United States, states as follows:

COUNT I

1. At all times herein mentioned Plaintiff was an actual and continuous resident of the State of Wisconsin and that the acts and events complained of herein occurred within Williamson County, Illinois. The decedent, Kimberle Mabry, died intestate on October 3, 2011. At all times herein mentioned Ms. Mabry was a resident of the Commonwealth of Kentucky. On November 23, 2011, Jan Beaugrand, sister of the decedent, was named as administratrix of the Estate of Kimberle Mabry.

2. At all times herein mentioned Dr. Shaheda M. Mansuri was an employee for Veterans Affairs (VA), an agency of the defendant, and was acting within the scope of her office or employment at the time of the incident out of which this claim arises. As a result, the United States is liable for the acts of Dr. Shaheda M. Mansuri under the principles of agency.

3. On or about April, 2008, Ms. Mabry reported to the VA Hospital of Marion, Illinois, complaining of constipation for one (1) month. Ms. Mabry asked for a colonoscopy to be performed, which was denied by Dr. Shaheda M. Mansuri.

4. On or about August, 2008, Ms. Mabry reported to the emergency room of the VA Hospital in Marion, Illinois, again complaining of constipation and asking for a colonoscopy, which was denied.

5. On or about December, 2008, Ms. Mabry submitted to a physical for Dr. Shaheda M. Mansuri at the VA Hospital in Marion, Illinois. Ms. Mabry again asked for a colonoscopy and was again denied.

6. In April, 2009, Ms. Mabry was admitted to the VA emergency room in Marion, Illinois. A colonoscopy was finally performed. Ms. Mabry was diagnosed with a torn rectum and fistula.

7. On or about June 29, 2009, Ms. Mabry reported to the Western Baptist Hospital

emergency room in Paducah, Kentucky. She was seen by Dr. Edwin Grogan, who immediately performed surgery to close one (1) of two (2) fistulas. The VA did not allow Dr. Grogan to repair and close the second fistula.

8. Kimberle Mabry died on October 3, 2011. Listed as causes of death on the death certificate were (1) anal cancer and (2) metastasis of the liver.

9. These illnesses went undiagnosed and untreated by the medical providers at the VA. This treatment fell below the standard of care, which directly resulted in Ms. Mabry's untimely death.

10. Administrative remedies have been previously exhausted. A claim was filed with the VA on March 1, 2010. It was denied by letter dated April 16, 2012. A Request for Reconsideration was received by the VA on August 8, 2012. Pursuant to 28 U.S.C. §2401, the VA had six (6) months to adjudicate this Request for Reconsideration and have failed to do so.

11. As a result of the aforementioned negligence of the United States, and the personal injury to and wrongful death of Kimberle Mabry, the estate of Kimberle Mabry has been forced to incur medical bills and funeral expenses; it has lost earning capacity of its decedent; Plaintiff's Decedent suffered pain and suffering and they have otherwise been damaged thereby.

12. By reason of the negligence of the United States, Jan Beaugrand, who is the sister of Kimberle Mabry, has been deprived of the companionship, love, and affection of her sister and damaged in an amount in excess of Four Thousand Dollars (\$4,000.00).

WHEREFORE, the Plaintiff respectfully demands judgment against Defendant United States in the amount of One Million Dollars (\$1,000,000.00); a bench trial; her costs incurred herein; and any and all other relief to which she may appear entitled.

RESPECTFULLY SUBMITTED,

/s/Mark Edwards

MARK EDWARDS

EDWARDS & KAUTZ, PLLC

222 Walter Jetton Blvd.

P. O. Box 1837

Paducah, KY 42002

270-442-9000 ph

270-443-4304 fx

ATTORNEY FOR PLAINTIFF